

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 24-4562 (DSD/DLM)

Michael Fiorito,

Plaintiff,

v.

ORDER

Metropolitan Council, doing
business as Metro Transit;
Delta Airlines; and Sun
Country Airlines,

Defendants.

This matter is before the Court on plaintiff Michael Fiorito's motion for reconsideration of the Court's earlier denial of Fiorito's application to proceed in forma pauperis (IFP). See ECF No. 12. The motion for reconsideration is denied. The court already concluded that each of the dismissals identified in Fiorito v. Prodigal Company, No. 24-CV-3757 (PJS/TNL), ECF No. 7 (D. Minn. Jan. 3, 2025), constitutes a "strike" for purposes of 28 U.S.C. § 1915(g). Nothing in the motion for reconsideration convinces the court that any of those three dismissals should not have been regarded as a strike.

Fiorito is ineligible for IFP status in this proceeding. He was required to pay the \$405.00 filing fee by no later than January 27, 2025, if he intended to proceed as a non-IFP litigant. ECF No. 9. Because that deadline has now passed and Fiorito has

not paid the required filing fee, this matter is now dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. See Henderson v. Renaissance Grand Hotel, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

Accordingly, based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED THAT:**

1. The motion for reconsideration of plaintiff Michael Fiorito [ECF No. 12] is denied.

2. This action is dismissed with prejudice for failure to prosecute.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 28, 2025

s/David S. Doty
David S. Doty, Judge
United States District Court